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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,377	03/16/2001	Matthew M. Graf	PA-5239-RFB	8787

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COOK GROUP PATENT OFFICE
P.O. BOX 2269
BLOOMINGTON, IN 47402

EXAMINER

HOOK, JAMES F

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 04/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/810,377

Applicant(s)

Graf et al.

Examiner

James F. Hook

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4
- 18) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

Art Unit: 3752

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

2. Claims 1-4, 7, and 13 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Trotta.
3. Claims 1-4, 7, and 13 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Castillo (880).
4. Claims 1-4, 7, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Parker (270). The patent to Parker discloses the recited sheath comprising a shaft 16 extending from a proximal end portion to a distal end portion, a distal tip 12 at the distal end of the shaft, the distal tip section comprising polymeric material 34 containing 35-65% of a radiopaque material such as tungsten, where the shaft is less radiopaque than the distal tip section, the polymeric material can be polyamide, and the tip member was originally a separate member.

Art Unit: 3752

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5, 6, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (270) in view of Hopkins. The patent to Parker discloses all of the recited structure with the exception of stating the size of the tungsten particles used. The patent to Hopkins discloses the recited use of radiopaque materials such as tungsten in a catheter, where it is known that the particles can be as small as 0.9 microns, which suggests they can be any size larger than 0.9 microns also. It would have been obvious to one skilled in the art to modify the tungsten in Parker to be of a size at least as small as 0.9 microns and larger as such are known particle sizes of tungsten used in radiopaque catheters as suggested by Hopkins.

7. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (270) in view of Garabedian. The patent to Parker discloses all of the recited structure with the exception of using fluorinated ethylene propylene as the polymeric material. The patent to Garabedian discloses that it is known in the art that fluorinated ethylene propylene can be used as sleeves in catheters. It would have been obvious to one skilled in the art to modify the polymeric material in Parker to be made of any suitable plastic for use with catheters including fluorinated

Art Unit: 3752

ethylene propylene as suggested by Garabedian as such is a known plastic that is used with catheters.

8. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (270) in view of Garabedian as applied to claims 8-10 above, and further in view of Hopkins. The patent to Parker as modified discloses all of the recited structure with the exception of stating the size of the tungsten particles used. The patent to Hopkins discloses the recited use of radiopaque materials such as tungsten in a catheter, where it is known that the particles can be as small as 0.9 microns, which suggests they can be any size larger than 0.9 microns also. It would have been obvious to one skilled in the art to modify the tungsten in Parker as modified to be of a size at least as small as 0.9 microns and larger as such are known particle sizes of tungsten used in radiopaque catheters as suggested by Hopkins.

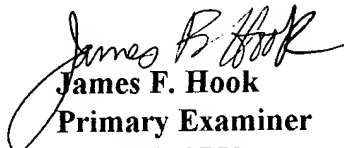
Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Soltesz, Castaneda, Thomas, Martinez, and Pederson disclosing state of the art catheters with radiopaque materials therein.

Art Unit: 3752

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Hook whose telephone number is (703) 308-2913.

J. Hook
April 22, 2002


James F. Hook
Primary Examiner
Art Unit 3752